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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/572,896	03/21/2006	Marek Swoboda	SWO006-PT1-US	2966
7590 MAREK SWOBODA 9 BREWERY TOWN CT PHILADELPHIA, PA 19121			EXAMINER BANH, DAVID H	
			ART UNIT 2854	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/572,896	SWOBODA, MAREK	
	Examiner DAVID BANH	Art Unit 2854	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 08 May 2009.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-26 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 08 May 2009 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Response to Arguments***

1. Applicant's arguments filed on May 8, 2009 have been fully considered but they are not persuasive.

Applicant alleges in Section 2 of the Arguments and Remarks that the invention presented in the application is nowhere to be found in the references cited by examiner. However, this is a general allegation of patentability. The response to arguments will be directed at the arguments found in the subsequent sections.

In section 3, with respect to claim 1, Applicant argues that Griffin et al. teaches a bottom portion which does not correspond to the bottom portion of the invention. However, the specifics of the bottom portion as outlined in the Arguments in this section are not claimed. Applicant alleges that the keys are differentiated from the keys of Griffin et al., however, these limitations are not claimed. Applicant argues that the invention "indicate[s] or display[s] 'the character or functions' on the keyboard independently from any user action", however, this limitation is not claimed.

With respect to claim 2, applicant alleges Griffin et al. teaches a different keyboard and that the QWERTY arrangement of the invention is different. However, only a QWERTY layout is claimed, which is taught by Griffin et al. The QWERTY keyboard arrangements of the Specification are not claimed.

With respect to claim 3, application alleges that the key activated from the side portion of the housing is novel. However, Griffin et al. teaches a key on the side portion

of the housing. The allegations that claim 1 is distinct from Griffin et al. is addressed above.

With respect to claims 10 and 13, applicant alleges that the invention is distinguished from Griffin et al. as the keyboard is "a keyboard which rests on a user's palm". However, a Griffin et al. teaches a hand-held keyboard, and such a keyboard is clearly capable of resting in a user's palm. The arguments directed to the Figures and palm and finger arrangements are directed to subject matter which is not claimed.

With respect to claim 11, applicant argues that the claim is distinguished from Griffin et al. because the preferred embodiment displays keys to the user prior to action. However, this limitation is not claimed. Additionally, applicant argues that the keyboard does not have a monitor. This limitation is also not in the claims.

With respect to claim 14, applicant argues that the device of Griffin et al. is not a keyboard because it has a small monitor portion and a keypad portion and is not meant to rest on a user's palms. However, Griffin et al. teaches a device with a plurality of keys set in rows, which is thus clearly a keyboard. The device is handheld (see Abstract) and thus is capable of resting in a user's palms.

With respect to claims 16 and 17, the arguments refer to limitations directed to the bottom portion of the housing, the indicating mechanism, the QWERTY arrangement and the lack of a display. However, these limitations are not claimed as discussed above.

With respect to claim 18, applicant argues that since the keys of the invention are invisible to the user side of the device, the teaching of Griffin is not valid. However, this

limitation is not claimed. Although a QWERTY arrangement is claimed, a QWERTY arrangement of keys is taught by Griffin et al. Applicant's arguments to a specific QWERTY arrangement as disclosed in the specification are again directed to limitations which are not claimed, as discussed above.

In section 4, with respect to claim 1, the arguments directed to the keys being normally invisible and the activation of the keys is directed to subject matter that is not claimed. The argument directed to the reverse orientation of the keyboard is also directed to subject matter not in the claims. The keyboard of Olodort et al., and any functional keyboard, is capable of resting in a user's palms. A portable keyboard can certainly be held in a user's palm. The limitation the keyboard is directed to a hand-held device is not claimed.

With respect to claims 6, 8 and 9, applicant alleges that there is an implied difference in the configuration of the support mechanism of Olodort et al. However, Olodort et al. meets all of the limitations of the invention as claimed.

2. In sections 5-11, in addition to repeating the arguments found in sections 2-4, applicant merely alleges that the invention as disclosed is different from Griffin et al. and thus no combination would be obvious. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5

USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, motivation or rationale for the combination is provided in each case. Applicant does present reasons for why it would not be obvious to combine the references.

***Response to Amendment***

3. Applicant has appointed an attorney or agent to conduct all business before the Patent and Trademark Office. Double correspondence with an applicant and applicant's attorney or agent will not be undertaken. Accordingly, applicant is required to conduct all future correspondence with this Office through the attorney or agent of record. See 37 CFR 1.33.

***Drawings***

4. The drawings were received on May 8, 2009. These drawings are disapproved because they introduce new matter into the disclosure. The added material is not supported by the original disclosure as follows: The new Figures 9 and 10 contain new matter because, even though they show a support and harness, which is found in the claims of the original disclosure, they contain additional details about the support and harness which were not claimed and were not otherwise part of the original disclosure which thus constitute new matter.

***Specification***

5. The amendment to the Specification filed on May 8, 2009 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the

invention. The added material which is not supported by the original disclosure is as follows: The amended Specification is objected to because it is describing the newly submitted Figures 9 and 10, which constitute new matter as they contain specific details of the harness and support which were not shown in the original disclosure.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Objections***

6. Claim 5 is objected to because of the following informalities: The recitation "the computer keyboard" lacks antecedent basis. Previous recitation refers to only a keyboard. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3, 10, 11, 13, 14 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Griffin et al. (US PG Pub 2002/0149567).

For claim 1: Griffin et al. teaches a keyboard **4008** for an electronic device **4000**, comprising a housing **4020** which has a top portion **4012**, **4032**, a bottom portion **4008**, **4014**, and first and second side portions **4004**, **4006**. The bottom portion has a plurality of keys **4008**. The screen of the invention taught by Griffin et al. is capable of displaying the keys which are pressed, which constitutes a mechanism for indicating the function

of the plurality of keys activated in the bottom portion of the housing. Griffin et al. teaches that the bottom portion of the housing constitutes a keyboard **4008**, and all standard keyboard apparatuses possess icons being labels on the keyboard for indicating the function of the key, for example, the character "A" for indicating that pressing the key will generate a character "A" on the screen.

Additionally, in paragraph 57 of page 5, the operating system is taught to give instructions to display the individual letters or strings of letters associated with the pressed key or keys on the screen.

For claim 2: Griffin et al. teaches the keyboard of claim 1, wherein the keyboard follows a QWERTY keyboard layout (page 1, paragraph 4).

For claim 3: Griffin et al. teaches the keyboard of claim 1, wherein the keyboard has a key **5012** activating on the right side **4006** of the housing **4020**.

For claim 10: Griffin et al. teaches the keyboard of claim 1, wherein the housing **4020** is contoured to be rest on a user's palm (page 1, paragraph 8).

For claim 11: Griffin et al. teaches the keyboard of claim 1 further comprising a display and operating system (page 5, paragraph 57) which comprises a mechanism that gives instructions for displaying in a preferable embodiment characters on a display. Characters displayed on a screen constitute an icon and a projected image and form part of a mechanism for indicating the function of the keys.

For claim 13: Griffin et al. teaches the keyboard **4008** of claim 1, for an electronic device **4000**, comprising a housing **4020** which has a top portion **4012**, **4032**, a bottom portion **4008**, **4014**, and first and second side portions **4004**, **4006**, the bottom

portion has a plurality of keys **4008** and the housing **4020** is contoured to be rest on a user's palm (page 1, paragraph 8).

For claim 14: Griffin et al. teaches the keyboard of claim 13 and further teaches a key **5012** activating on the right side **4006** of the housing **4020**.

For claim 16: Griffin et al. teaches the keyboard of claim 13, further comprising a mechanism for indicating the character or function for a plurality of keys **4008** activated from the bottom portion **4008** of the housing **4020**, the mechanism being the display **4012** and operating system (page 5, paragraph 57) which gives instructions for displaying in a preferable embodiment characters on a display.

For claim 17: Griffin et al. teaches the keyboard of claim 16, and the mechanism for indicating the character or function of the keys **4008**, being the display **4012**, shows characters on the screen which constitutes a projected image (see paragraph 57). The character on the screen indicates the function of the key.

For claim 18: Griffin et al. teaches the keyboard of claim 13 wherein the keys follow a QWERTY keyboard layout (page 1, paragraph 4).

9. Claims 1, 6, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Olodort et al. (US PG Pub 2002/0084920).

For claim 1: Olodort et al. teaches a keyboard **50** for an electronic device **60** comprising a top portion **112**, a bottom portion **220, 320**, and first and second side portion **120, 420** further having a mechanism for indicating the function of the plurality of keys being letters disposed on the keyboard as seen in Fig. 2.

For claims 6 and 8: Olodort et al. the keyboard of claim 1 further comprising a support mechanism **526, 530** comprising legs **530**.

For claim 9: Olodort et al. teaches the keyboard of claim 1 further connected through radio antenna (page 7, paragraph 102) to an electronic device.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 4 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griffin et al. (US PG Pub 2002/0149567) in view of Ito et al. (US Patent 6,489,576).

For claims 4 and 15: Griffin et al. teaches all of the limitations of claims 4 and 15 except that the housing is transparent. However, Ito et al. teaches a transparent casing for a keyboard (column 1, lines 1-5). Ito et al. expects that a keyboard of transparent design has the advantage of having an excellent appearance when view from the rear surface side (column 4, lines 35-50). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a transparent casing as taught by Ito et al. to house the keyboard and device of Griffin et al. for the purpose of making it aesthetically pleasing in a rear view.

12. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Griffin et al. (US PG Pub 2002/0149567) in view of Lewis et al. (US PG Pub 2005/0068304).

For claim 5: Griffin et al. teaches all of the limitations of claim 5 except that the keys are transparent or opaque. However, Lewis et al. teaches keys **1300** with a transparent top surface **1305** and translucent glyphs **1301, 1302**. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use opaque keys with translucent glyphs as taught by Lewis et al. as the keys in the bottom portion of the keyboard and device taught by Griffin et al. for the purpose allowing the keys to be backlit for easy viewing in the dark.

13. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griffin et al. (US PG Pub 2002/0149567) in view of Janik (US Patent 6,108,197).

For claim 6: Griffin et al. teaches all of the limitations of claim except that it does not teach support mechanism connected to the housing. However, Janik teaches a harness is used as a support for the keyboard and electronic device (Fig. 24). It would have been obvious to one of ordinary skill in the art at the time the invention was made to supply a harness for securing the keyboard and electronic device so that a person, particularly emergency personnel, could carry the device with increased comfort and reduced risk of losing or displacing it in high stress and emergency situations.

For claim 7: The combination of Griffin et al. and Janik teaches all of the limitations of claim 7, since the support is a harness (Fig. 24).

14. Claims 12 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griffin et al. (US PG Pub 2002/0149567) in view of Ijas et al. (US PG Pub 2002/0016191).

For claims 12 and 19: Griffin et al. teaches all of the limitations of claims 12 and 19 except that the keys are ergonomically positioned. However, Ijas et al. teaches the keys of a keyboard for a handheld device to be ergonomically positioned (page 1, paragraph 5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to ergonomically position the keys on the keyboard of Griffin et al. as taught by Ijas et al. for the purposes of reducing stress and strain on the hands of the user.

15. Claims 20 and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griffin et al. (US PG Pub 2002/0149567) in view of Lewis et al. (US PG Pub 2005/0068304).

For claim 20: Griffin et al. teaches a keyboard **4008** for an electronic device **4000**, comprising a housing **4020** which has a top portion **4012, 4032**, a bottom portion **4008, 4014**, and first and second side portions **4004, 4006**, the bottom portion having a plurality of keys **4008**, the housing being contoured to be rest on a user's palm (page 1, paragraph 8). Griffin et al. teaches that the device has a key **5012** activating on the right side **4006** of the housing.

Griffin et al. does not teach a key on the left side of the housing. However, Lewis et al. teaches a keyboard in an electronic device that possesses four portions, a top **206**, bottom, being the keyboard portion, unlabeled in Fig. 8, and first and second side portions **224, 210**. Both side portions possess keys which can be activated. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide keys on both sides of the housing as taught by Lewis et al. into the keyboard

taught by Griffin et al. to allow for more functional non-keyboard keys to be placed on the apparatus for the purpose of affecting additional functions such as power-on and directional pad capabilities.

For claim 22: Griffin et al. teaches all of the limitations of claim 22 except that the keys are transparent or opaque. However, Lewis et al. teaches keys **1300** with a transparent top surface **1305** and translucent glyphs **1301, 1302**. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use opaque keys with transparent icons as taught by Lewis et al. in the keyboard taught by Griffin et al. and Lewis as shown above, for the purpose backlighting the keys for use in the dark.

For claim 23: The combination of Griffin et al. and Lewis et al. teaches the keyboard of claim 20 and Griffin et al. further teaches a mechanism for indicating the character of the function of the keys, being the screen (page 5, paragraph 57, pressing the key can cause the character to be displayed on the screen, which would indicate the function of the key).

For claim 24: The combination of Griffin et al. and Lewis et al. teaches the keyboard of claim 23 and Griffin et al. further teaches that the mechanism comprises a projected image and icon (see page 5, paragraph 57, the image on the screen is a projected image and icon).

For claim 25: The combination Griffin et al. and Lewis et al. teaches the keyboard and Griffin et al. further teaches that the keyboard follows a QWERTY keyboard layout (page 1, paragraph 4).

16. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Griffin et al. (US PG Pub 2002/0149567) and Lewis et al. (US PG Pub 2005/0068304) as applied to claim 20 above, and further in view of Ito et al. (US Patent 6,489,576).

For claim 21: The combination of Griffin et al. and Lewis et al. teaches all of the limitations of claim 21 except that the housing is transparent. However, Ito et al. teaches a transparent casing for a keyboard (column 1, lines 1-5). Ito et al. expects that a keyboard of transparent design has the advantage of having an excellent appearance when view from the rear surface side (column 4, lines 35-50). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a transparent casing as taught by Ito et al. to house the keyboard and device taught by the combination of Griffin et al. and Lewis et al. for the purpose of making it aesthetically pleasing in a rear view.

17. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Griffin et al. (US PG Pub 2002/0149567) and Lewis et al. (US PG Pub 2005/0068304) as applied to claim 20 above in further view of Ijas et al. (US PG Pub 2002/0016191).

The combination of Griffin et al. and Lewis et al. teaches all of the limitations of claims 26 as found in parent claim 20. The combination does not teach the keys to be ergonomically positioned. However, Ijas et al. teaches the keys of a keyboard for a handheld device to be ergonomically positioned (page 1, paragraph 5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to ergonomically position the keys on the keyboard taught by the combination of Griffin et

al. and Lewis et al. as taught by Ijas et al. for the purposes of reducing stress and strain on the hands of the user.

### ***Conclusion***

18. A copy of the Office Action will also be sent to the applicant, Marek Swoboda, at 2404 Aspen Street, Philadelphia, Pennsylvania, 19130.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID BANH whose telephone number is (571)270-3851. The examiner can normally be reached on M-Th 9:30AM-8PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571)272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DHB

/Judy Nguyen/  
Supervisory Patent Examiner, Art Unit 2854

CC: Marek Swoboda

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